

AMENDED IN ASSEMBLY JULY 11, 2011

AMENDED IN ASSEMBLY JUNE 20, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE APRIL 26, 2011

**SENATE BILL**

**No. 35**

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**Introduced by Senator Padilla**

December 6, 2010

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An act to repeal Sections 25740, 25740.5, 25742, 25743, 25744, 25744.5, 25746, 25747, 25748, and 25751 of, to repeal and add Chapter 7.1 (commencing with Section 25620) of Division 15 of the Public Resources Code, and to repeal Section 399.8 of the Public Utilities Code, relating to energy, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 35, as amended, Padilla. California Energy Research and Technology Act of 2011.

(1) Under the Public Utilities Act, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. The act requires the PUC to require, until January 1, 2012, an electrical corporation to identify a separate electrical rate component to fund energy efficiency, renewable energy, and research, development, and demonstration programs that enhance system reliability and provide in-state benefits. Existing law requires that the moneys collected between January 1, 2007, and January 1, 2012, from the electrical corporations for public interest research, development, and demonstration projects be deposited in the Public Interest Research, Development, and Demonstration Fund and be used for the purposes of the Public Interest

Energy Research, Demonstration, and Development Program. Existing law requires that the moneys collected by the electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resources technologies be deposited in the Renewable Resource Trust Fund for the purposes of the Renewable Energy Resources Program.

This bill would repeal those provisions.

(2) This bill would enact the California Energy Research and Technology Program Act of 2011 (act). The bill would require the State Energy Resources Conservation and Development Commission (Energy Commission) to establish and administer the California Energy Research and Technology program (CERT) to fund research, development, and demonstration projects that may lead to advancement and breakthroughs to overcome those barriers that prevent the achievement of the state's statutory energy goals. The bill would require the Energy Commission to convene, no less than twice a year, meetings of the CERT Coordinating Council consisting of members representing specified entities and would require the council to identify the technological challenges that most warranted funding under the CERT and opportunities for joint funding of projects and to make recommendations for avoiding the funding of duplicative projects. The bill would require the Energy Commission to adopt regulations or modify existing regulations to implement the CERT. The bill would require the Energy Commission to consult with the CERT Coordinating Council to establish a process for tracking the progress and outcome of funded projects. The bill would require the Energy Commission to consult with the CERT Coordinating Council and the Treasurer to establish terms that may be imposed as conditions for the receipt of CERT funding. The bill would require the Energy Commission, no later than March 31 of each year to prepare and submit to the Legislature an annual report regarding projects funded by the CERT. The bill would require the Energy Commission, no later than an unspecified date, to contract with an independent entity to review the CERT and would require the Energy Commission to report to the Legislature regarding the CERT no later than an unspecified date. The bill would repeal the act on an unspecified date.

(3) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Chapter 7.1 (commencing with Section 25620)  
2 of Division 15 of the Public Resources Code is repealed.

3     SEC. 2. Chapter 7.1 (commencing with Section 25620) is added  
4 to Division 15 of the Public Resources Code, to read:

5  
6             CHAPTER 7.1. CALIFORNIA ENERGY RESEARCH AND  
7                             TECHNOLOGY  
8

9     25620. This chapter shall be known and may be cited as the  
10 California Energy Research and Technology Program Act of 2011.

11     25620.1. The Legislature finds and declares all of the following:

12     (a) California has been a national leader in reducing energy  
13 consumption by establishing ambitious goals, policies, and  
14 programs to increase energy efficiency and generation from  
15 renewable energy sources.

16     (b) Achieving these state energy goals will benefit the public  
17 and energy utility ratepayers through reduced system costs and  
18 reduced end-user charges for service.

19     (c) Barriers to achieving these energy goals and ratepayer  
20 benefits include, but are not limited to, significant technological  
21 challenges relating to energy storage, integrating renewable energy  
22 into the electric grid, and accurately forecasting the availability of  
23 renewable energy for integration into the grid.

24     (d) Breakthroughs to overcome these technological challenges  
25 and to enable the state to achieve its statutory energy goals require  
26 strategically focused research, development, and demonstration  
27 projects.

28     (e) It is appropriate and necessary for the state to administer a  
29 program of research, development, and demonstration to accelerate  
30 technological advancement and breakthroughs that may enable  
31 the state to achieve its statutory energy goals.

32     25620.2. (a) The California Energy Research and Technology  
33 program (CERT) is hereby established for the purpose of funding  
34 research, development, and demonstration projects that may lead  
35 to technological advancement and breakthroughs to overcome the  
36 barriers that prevent the achievement of the state's statutory energy  
37 goals.

(b) The commission shall develop and administer the program consistent with this chapter.

25620.3. (a) The commission shall, no less than twice a year, convene a meeting of the CERT Coordinating Council, which shall consist of the following members:

(1) The chair of the commission, who shall serve as the chair of the council.

(2) One representative from Pacific Gas and Electric Corporation.

(3) One representative from Southern California Edison Corporation.

(4) One representative from San Diego Gas and Electric Corporation.

(5) One representative from the Public Utilities Commission.

(6) One representative from the Independent System Operator.

(7) One representative from the State Air Resources Board.

(8) One representative from the Division of Ratepayer Advocates within the Public Utilities Commission.

(9) Two representatives from consumer organizations, with one appointed by the Senate Committee on Rules and one appointed by the Speaker of the Assembly.

(10) Two representatives from environmental organizations, with one appointed by the Senate Committee on Rules and one appointed by the Speaker of the Assembly.

(11) Two representatives from university research institutions, with one appointed by the Senate Committee on Rules and one appointed by the Speaker of the Assembly.

(12) Three at-large members appointed by the Governor.

(13) (A) Two ex officio, nonvoting members from the Legislature, with one Senator appointed by the Senate Committee on Rules and one Assembly Member appointed by the Speaker of the Assembly.

(B) The Members of the Legislature shall participate in the activities of the council to the extent that the participation is not incompatible with their respective positions as Members of the Legislature.

(b) Each voting member of the council shall serve a term of three years.

(c) The council shall annually identify the technological challenges that are the most significant barriers to achieving the

1 state's statutory energy goals for which CERT funding is most  
2 warranted. These technological challenges shall include, but not  
3 be limited to, energy storage, integrating renewable energy into  
4 the electrical grid, and accurately forecasting the availability of  
5 renewable energy for integration into the electrical grid.

6 (d) The council shall identify opportunities for joint funding of  
7 research, development, and demonstration projects, and make  
8 recommendations to help the commission avoid funding projects  
9 that would duplicate projects already being funded by the Public  
10 Utilities Commission, the State Air Resources Board, or any other  
11 public agency or private organization.

12 (e) The council shall comply with the requirements of the  
13 Bagley-Keene Open Meeting Act (Article 9 (commencing with  
14 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of  
15 the Government Code).

16 25620.4. (a) The commission shall award CERT funds for  
17 projects that may lead to technological advancement and  
18 breakthroughs to overcome barriers to achieving the state's  
19 statutory energy goals and that results in a portfolio of project  
20 awards that does all of the following:

21 (1) Is strategically focused and sufficiently narrow to make  
22 advancement on the most significant technological challenges,  
23 including, but not limited to, energy storage, integrating renewable  
24 energy into the electrical grid, and accurately forecasting the  
25 availability of renewable energy for integration into the electrical  
26 grid, or technological challenges identified by the CERT  
27 Coordinating Council pursuant to Section 25620.3.

28 (2) Ensures that prior, current, and future research, development,  
29 and demonstration projects are not unnecessarily duplicated.

30 (3) Invests in projects of California-based entities unless there  
31 is a unique need that can be met only by an entity based outside  
32 of California.

33 (4) Results in a reasonably equitable distribution of awards from  
34 various geographic regions of California, if consistent with the  
35 provisions of this chapter.

36 (5) Maximizes expenditure of funds for research, development,  
37 and demonstration projects and minimizes expenditure of funds  
38 for administration and overhead costs.

1 (b) The commission shall not award or expend CERT funds for  
2 any purposes except as provided in this chapter or identified by  
3 the council pursuant to Section 25620.3.

4 25620.5. (a) The commission shall adopt regulations, or modify  
5 existing regulations, for the solicitation of award applications,  
6 evaluation of applications, and the award of funds consistent with  
7 this chapter.

8 (b) The regulations shall require each applicant to demonstrate  
9 how the proposed project may lead to technological advancement  
10 and potential breakthroughs to overcome barriers to achieving the  
11 state's statutory energy goals.

12 (c) The regulations shall require each reward recipient, as a  
13 condition of receiving CERT funds, to agree to any terms the  
14 commission determines are appropriate for the state to accrue any  
15 intellectual property interest or royalties that may derive from  
16 CERT funding.

17 (d) The regulations shall prohibit any person from participating  
18 in the evaluation or disposition of any application if that person  
19 has a conflict of interest regarding that application, within the  
20 meaning of Section 87100 of the Government Code.

21 25620.6. The commission, prior to awarding any CERT funds,  
22 and in consultation with the CERT Coordinating Council, shall  
23 establish a process for tracking the progress and outcomes of each  
24 funded project, including an accounting of the amount of funds  
25 spent on administrative and overhead costs and whether the project  
26 resulted in any technological advancement or breakthrough to  
27 overcome barriers to achieving the state's statutory energy goals.

28 25620.7. The commission, prior to awarding any CERT funds,  
29 and in consultation with the CERT Coordinating Council and the  
30 Treasurer, shall establish terms that may be imposed as a condition  
31 to receipt of funding, as the commission determines appropriate,  
32 for the state to accrue any intellectual property interest or royalties  
33 that may derive from CERT funding. The commission, when  
34 determining if imposition of these terms is appropriate, shall  
35 balance the potential benefit to the state from those terms and the  
36 effect those terms may have on the state achieving its statutory  
37 energy goals.

38 25620.8. (a) The commission, not later than March 31 of each  
39 year, shall prepare and submit to the Legislature an annual report

1 in compliance with Section 9795 of the Government Code that  
2 shall include all of the following:

3 (1) A brief description of each project for which funding was  
4 awarded in the immediately prior calendar year, including the  
5 name of the recipient and amount of award, and a description of  
6 how the project may lead to technological advancement or  
7 breakthroughs to overcome barriers to achieving the state's  
8 statutory energy goals.

9 (2) A brief description of each CERT-funded project that was  
10 completed in the immediately prior calendar year, including the  
11 name of the recipient, the amount of the award, and the outcomes  
12 of the funded project, in accordance with the process described in  
13 Section 25620.6.

14 (3) A brief description of each CERT-funded project for which  
15 an award was made in the previous years but that is not completed,  
16 including the name of the recipient and amount of the award, and  
17 a description of how the project may lead to technological  
18 advancement or breakthroughs to overcome barriers to achieving  
19 the state's statutory energy goals.

20 (4) A list and description of the technological challenges that  
21 the council identifies as the most significant barriers to achieving  
22 the state's statutory energy goals, as identified by the council  
23 pursuant to ~~Section 25260.3~~ 25620.3 for the current year and all  
24 prior years.

25 (b) The commission shall post on its Internet Web site each  
26 annual report, and a searchable database containing information  
27 in the annual report and shall also include information on awards  
28 made under the former Public Interest Research, Development,  
29 and Demonstration Program.

30 (c) The commission shall establish procedures for protecting  
31 confidential or proprietary information in public reports about  
32 CERT-funded projects.

33 25620.9. The commission, no later than \_\_\_\_, shall contract  
34 with an independent entity to conduct a review of the CERT and  
35 report the conclusions and recommendations from that review to  
36 the Legislature no later than \_\_\_\_.

37 25620.10. This chapter shall remain in effect only until \_\_\_\_,  
38 and as of that date is repealed, unless a later enacted statute, that  
39 is enacted before \_\_\_\_, deletes or extends that date.

1 SEC. 3. Section 25740 of the Public Resources Code, as  
2 amended by Section 4 of Chapter 1 of First Extraordinary Session  
3 of the Statutes of 2011, is repealed.

4 SEC. 4. Section 25740.5 of the Public Resources Code, as  
5 amended by Section 5 of Chapter 1 of First Extraordinary Session  
6 of the Statutes of 2011, is repealed.

7 SEC. 5. Section 25742 of the Public Resources Code, as  
8 amended by Section 8 of Chapter 1 of First Extraordinary Session  
9 of the Statutes of 2011, is repealed.

10 SEC. 6. Section 25743 of the Public Resources Code is  
11 repealed.

12 SEC. 7. Section 25744 of the Public Resources Code is  
13 repealed.

14 SEC. 8. Section 25744.5 of the Public Resources Code is  
15 repealed.

16 SEC. 9. Section 25746 of the Public Resources Code, as  
17 amended by Section 9 of Chapter 1 of First Extraordinary Session  
18 of the Statutes of 2011, is repealed.

19 SEC. 10. Section 25747 of the Public Resources Code, as  
20 amended by Section 10 of Chapter 1 of First Extraordinary Session  
21 of the Statutes of 2011, is repealed.

22 SEC. 11. Section 25748 of the Public Resources Code is  
23 repealed.

24 SEC. 12. Section 25751 of the Public Resources Code, as  
25 amended by Section 11 of Chapter 1 of First Extraordinary Session  
26 of the Statutes of 2011, is repealed.

27 SEC. 13. Section 399.8 of the Public Utilities Code is repealed.

28 SEC. 14. *This act is an urgency statute necessary for the*  
29 *immediate preservation of the public peace, health, or safety within*  
30 *the meaning of Article IV of the Constitution and shall go into*  
31 *immediate effect. The facts constituting the necessity are:*

32 *In order to achieve the state's energy goals at the earliest*  
33 *possible time, it is necessary for this act to take effect immediately.*